

**AGREEMENT TO RELOCATE AND ABANDON EXISTING GAS PIPELINE
BETWEEN THE
CITY OF COLLEGE STATION,
AND MITCHELL GAS SERVICES L.P.**

This Agreement is entered into by and among the CITY OF COLLEGE STATION, TEXAS, a home-rule municipal corporation organized under the laws of Texas (hereinafter referred to as "CITY"), MITCHELL GAS SERVICES L.P. (hereinafter referred to as "MITCHELL).

WHEREAS, CITY is authorized and empowered under applicable Texas law to operate a municipal water system; and

WHEREAS, CITY is installing a waterline to provide water service to its citizens; and

WHEREAS, MITCHELL owns and operates a gas pipeline that is located in the area of right of way that the CITY requires for the location of its water line; and

WHEREAS, MITCHELL is willing to relocate and abandon its existing pipeline under certain terms and conditions; and

NOW, THEREFORE, for and in consideration of the premises and mutual covenants and promises hereinafter set forth, the Parties represent and agree as follows:

1. Definitions

For the purposes of this Agreement, when not inconsistent with the context, words, used in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural, and the use of any gender shall be applicable to all genders whenever the sense requires. The words "shall" and "will" are mandatory and the word "may" is permissive. Words not defined in this Agreement shall be given their common and ordinary meaning.

1.1. **Gas Pipeline** means MITCHELL's gas pipeline(s) in the TXDOT Highway right-of-way on Sandy Point Road in Brazos County, Texas more specifically described as the North Side of FM 1687.

1.2 **Abandonment of Pipeline** means that the existing gas pipeline located on the North side of FM 1687 will be permanently abandoned in place by MITCHELL and that CITY shall be entitled to remove the pipeline in its entirety and use the TXDOT right of way in this area to install CITY facilities.

1.3 **TXDOT** means the Texas Department of Transportation.

MITCHELL agrees to:

1. Abandon and relocate its gas pipeline from its existing location on the North side of FM 1687 to the South side of FM 1687 right-of-way or on private property on condition that the CITY fully reimburse MITCHELL for the relocation. The estimated cost to relocate the gas pipeline is \$165,000.00. A detailed cost estimate for the relocation has been provided by MITCHELL and is attached hereto as Exhibit A and incorporated herewith.
2. Complete the relocation and abandonment of its pipeline on or before March 30, 2001. *The City may, in its sole discretion, delay the work during inclement weather in order to preserve the Project, insure safety of work forces, and the preservation of materials and equipment. In such event, and upon a written request from MITCHELL, the City may grant an extension of time to offset for such stoppage of the work.*
3. Permanently relinquish any rights it has pursuant to a TXDOT permit to control the area of right-of-way in which the abandoned pipeline was located upon receipt of payment by CITY for the relocation.
4. Allow CITY to remove and dispose of the abandoned pipeline upon completion of the relocation by MITCHELL without any liability or cost except as provided in Section 1 hereinabove.

City agrees to:

1. Pay MITCHELL for the actual cost of relocation and abandonment not to exceed **\$165,000.00** within 30 days of the date of receipt of a detailed invoice from MITCHELL verifying the actual cost of relocation of the pipeline including but not limited to bid documents, payment applications including any supporting information if requested by CITY.

2. Term

The term of this Agreement is from the date of execution of this Agreement through April 30, 2001.

3. Invalidity

If any provision of this Agreement shall be held to be invalid, illegal or unenforceable by a court or other tribunal of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The parties shall use

their best efforts to replace the respective provision or provisions of this Agreement with legal terms and conditions approximating the original intent of the parties.

4. Written Notice

All notices required by this Agreement (i) shall be in writing, (ii) shall be addressed to the parties as set forth below unless notified in writing of a change in address, and (iii) shall be deemed to have been delivered either when personally delivered or, if sent by mail, in which event it shall be sent by registered or certified mail, return receipt requested, three (3) business days after mailing. The addresses of the parties are as follows:

To MITCHELL: MITCHELL GAS SERVICES L.P.
P.O. Box 10006
College Station, TX 77845-0006

To CITY: City of College Station Public Utilities
1601 Graham Road
College Station, Texas 77845
Attn: Dale Schepers

5. Entire Agreement

It is understood that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements, or understandings, written or oral, between the parties relating to the subject matter. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent or employee of the CITY, either before or after the execution of this Agreement, shall affect or modify any of the terms or obligations hereunder.

6. Amendment

No amendment to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of MITCHELL GAS and CITY.

7. Texas Law

This Agreement has been made under and shall be governed by the laws of the State of Texas.

8. Place of Performance

Performance and all matters related to this contract shall be in Brazos County, Texas, United States of America.

9. Authority to Contract

Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective corporations

10. Waiver

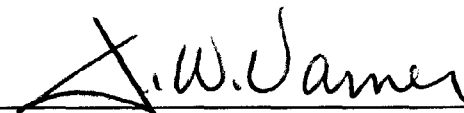
Failure of any party, at any time, to enforce a provision of this Agreement, shall in no way constitute a waiver of that provision, nor in any way affect the validity of this Agreement, any part hereof, or the right of the party thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.

11. Construction

The parties acknowledge that each party and its counsel have reviewed and revised this Contract and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Contract or any amendments or exhibits hereto.

MITCHELL GAS SERVICES L.P.

CITY OF COLLEGE STATION, TEXAS

By: 
Printed Name: J.W. Varner
Title: Senior Vice President
Date: 1/29/2001 *JWB*

By: _____
Lynn McIlhaney, Mayor
Date: _____

ATTEST:

Connie Hooks, City Secretary

APPROVED:

Thomas E. Brymer, City Manager

Date: _____

Charles Cryan, Director of Fiscal Services

Date: _____

City Attorney

Date: _____

Dale Schepers

Date: _____

THE STATE OF Texas §

ACKNOWLEDGMENT

COUNTY OF Montgomery §

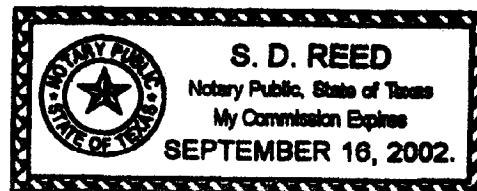
Before me, the undersigned authority, on this day personally appeared _____
J.W. Varner as Senior Vice President of MITCHELL GAS
SERVICE L.P., a Delaware Limited Partnership, and known to me to be
the person whose name is subscribed to the foregoing instrument, and acknowledged to me that
he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this the 29th of January, 2001.

*Attached to Agreement to Relocate and
Abandon Existing Gas Pipeline between
the City of College Station, and
Mitchell Gas Services L.P.*

S. D. Reed

Notary Public in and for the
State of Texas



THE STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

ACKNOWLEDGMENT

Before me, the undersigned authority, on this day personally appeared LYNN McILHANEY, as Mayor of the CITY OF COLLEGE STATION, a Texas home rule municipal corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this the _____ of _____, 2001.

Notary Public in and for the
State of Texas